

Medicines and medical appliances are not taxed at the general State rate of 6.25%. These items are taxed at a lower State rate of 1%. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

May 16, 2007

Dear Xxxxx:

This letter is in response to your letter dated October 23, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Our Company is engaged in the manufacture and distribution of cardiovascular blood management products such as chest drains used after open-heart surgery, thoracic catheters, autotransfusion devices and synthetic artery products. From time to time we may sell our products to for-profit or not-for-profit healthcare organizations within your state. We are sending this letter in an effort to determine the state sales tax laws governing our products in each of the many states our Company operates in.

Please complete the attached form and return it to me at the following address:

ADDRESS

Please contact me if you have any questions.

DEPARTMENT'S RESPONSE

For useful information regarding the taxation of food, drugs, medicines and medical appliances, we refer you to the Department's regulation at 86 Ill. Adm. Code 130.310. Those products that qualify as medicines, drugs, or medical appliances are taxed at the reduced tax rate of 1% plus applicable local taxes. Those that do not qualify for the low rate are taxed at the State rate of 6.25%, plus applicable local taxes.

The definition of a medical appliance is "an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body." Please note that 86 Ill. Adm. Code 130.310(c)(2) provides that medical appliances may be prescribed by licensed health care professionals for use by a patient, purchased by health care professionals for the use of patients, or purchased directly by individuals. In addition, not all items prescribed by physicians or other licensed health care professionals qualify for the low rate. A medicine or drug is defined at Section 130.310(c)(1) as "any pill, powder, potion, salves, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities."

Examples of items that qualify for the reduced rate are corrective medical appliances such as hearing aids, eyeglasses and contact lenses. As a general proposition, diagnostic, treatment, and rehabilitative equipment items do not qualify for the reduced rate of tax as medical appliances because such items are not "for use in directly substituting for a malfunctioning part of the body," 86 Ill. Adm. Code 130.310(c)(2).

You can determine the tax status of the items listed in your letter by applying the principles set forth in the regulation. For example, the items you listed that are implanted into the patient may qualify for the low rate if they are substituting for a malfunctioning part of the body.

Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive exemption identification numbers (an "E" number). See the enclosed copy of 86 Ill. Adm. Code 130.2007. This number evidences that the Department recognizes the organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. If an organization does not have an E number, then its purchases are subject to tax. Organizations that are recognized as nonprofit under Internal Revenue Code Section 501(c)(3), are not necessarily exempt organizations pursuant to Illinois tax law. Such organizations must obtain an Illinois "E" number to qualify. Please be aware that only sales to organizations holding the E number are exempt, not sales to individual members of the organization.

If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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